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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/504,154	02/15/00	RAASAKKA	J 60,130-740
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PM82/0308

EXAMINER

PEDDER, D

ART UNIT

PAPER NUMBER

3612

DATE MAILED:

03/08/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.  
**09/504,154**

Applicant(s)  
**Raasaka et al.**

Examiner  
**Dennis H. Pedder**

Group Art Unit  
**3612**



☒ Responsive to communication(s) filed on Feb 28, 2001

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire three month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1, 4-6, and 8-14 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1, 4-6, and 8-14 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☒ The proposed drawing correction, filed on Feb 28, 2001 is ☒ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1, 4-6, 8-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 continues to be indefinite in "vertically above said closure member" as the deflector does not extend vertically above in extended position, see figure 1 as the closure is moved to the right. Claim 8 defines this relationship with particularity per the Statute. Claim 1 lacks antecedent for "said portion of said wind deflector".

Claim 8 is apparently incorrect as the closure does not contact a seal 24, newly added to the drawings, that is vertically above the wind deflector as this seal is displaced to the left from the deflector in figure 2. If the seal mounted on the closure is intended, the claim is also vague as contact is inherent. The claim is treated below as best understood.

Claim 13 lacks antecedent for "said portion of said wind deflector".

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*Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 4-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Webasto, DT 3100731.

The deflector 26 of Webasto is positioned at a higher vertical position than the closure member in extended position. Webasto has stop 38 positioned on an opposite side of axis 37 from portion 26, the stop contacting mount 27 in extended position.

See spring 42, claim 4, and fingers of same, claim 5, and biasing of the wind deflector in figure 4 by the closure member, claim 6.

5. Claims 8-9 are rejected under 35 U.S.C. 102(b) as being anticipated by either Kanou et al. or Bienert et al..

Both references have spring biasing members, mounts 23 and 27, respectively, and pivot to a position higher vertically than the closure member. Both closure members have seals vertically above the wind deflector in stowed position.

As to claim 9, see Kanou et al.. Although this detail is not shown in Bienert et al., this is how such springs function, hence inherent.

6. Claim 10 is rejected under 35 U.S.C. 102(b) as being anticipated by Kanou et al..

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See stop surface 24 of Kanou et al. contacting the opposed surface of mount 23 in extended position.

*Allowable Subject Matter*

7. Claims 11-14 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2<sup>nd</sup> paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

*Response to Arguments*

8. Applicant's arguments with respect to claims 1, 4-6, 8-14 have been considered but are moot in view of the new ground(s) of rejection.

*Conclusion*

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period

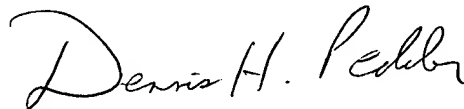
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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Pedder whose telephone number is (703)308-2178. Fax amendments to expedite handling should be sent to (703) 305-7687.

DHP

March 7, 2001



Dennis H. Pedder  
Primary Examiner  
Art Unit 3612

3/7/01